

The proviso in the 1947 Act simply means that (1) the Agency does not have either the legal ability or authority to put its hands on a single individual or thing in the United States for police, subpoena, or law enforcement purposes and (2) the Agency's authorities can not be invoked for purely internal security purposes such as collecting information on persons in the United States who, unlike Agency employees, are not of legitimate concern to the Agency. It is quite clear that the Agency's action in the instant case did not entail activities proscribed in the 1947 Act. Consequently, the 29 January 1973 letter to Representative Koch stated that we did not consider our activities to be in violation of these restrictions.

Proposed Statement by Mr. Helms

on Koch Allegations

1. Amenities

2. Mr. Chairman, I understand the reason I have been called by you to appear before the Committee is to answer any questions that the Committee might have pertaining to Central Intelligence Agency's action in responding to requests from local law enforcement officials for information on the mechanics of information handling and in several other fields where the Agency has developed some expertise in the process of carrying out its foreign intelligence mission.

3. I, of course, will proceed in whatever manner you would like, Mr. Chairman, but as I see it there are two aspects of the current controversy and it might be helpful if I give you my views on both of them at the outset.

a. As I understand it the basic question is whether the Agency by its activities violates a statutory injunction "that the Agency shall have no police, subpoena, law-enforcement powers or internal-security functions." I would like to first explain what I believe ^{to be} the plain meaning of this proviso in the National Security Act of 1947 (102(d)(3)). Secondly I would like to review the activities that were actually carried out as an aid in your determining if there was in any way a violation of either the letter or the spirit of the law.

b. The first part of the statutory proviso talks about police subpoena and law-enforcement powers. I think that in the sense that the word is used, the word powers clearly means legal ability or authority. In this sense the Agency has no police, subpoena, or law-enforcement powers. Simply put, we can't put our hand on a single individual in the United States for police, subpoena, or law-enforcement purposes. And finally, the activities in question, as you will see, are in no way related to even an attempt to exercise such powers.

c. The second key phrase in the proviso concerns "internal-security functions." These words perhaps lack a certain amount of preciseness but I think that we can agree that the word 'function' by itself would mean a special duty or performance requirement. *a little intent, to feel*
I think ~~the~~ ^{the} real meaning of the term comes through in the legislative history of the 1947 National Security Act itself.

d. I think it might be helpful to look at the statutory context in which the proviso occurs. (Pass out Section 102). Section 102 of the National Security Act of 1947 establishes the Central Intelligence Agency and the office of the Director of Central Intelligence. Subsections 'a' and 'b' deal principally with the office of the Director and Deputy Director of Central Intelligence.

e. Subsection c involves housekeeping authority relating to the tenure of employment for Agency employees. The heart of

Section 102 is Subsection d which sets forth the duty of the Agency under the direction of the National Security Council.

Subsection d(3) relates specifically to correlation, evaluation, and dissemination of foreign intelligence information. It is in that ^{sub} Section that the proviso in question appears.

f. It is clear from the legislative history of the Act that the Members of Congress wanted no confusion between the pursuit of intelligence abroad and police powers at home. In 1947 it was very clear that the merging of these two functions were characteristic of totalitarian states.

g. The concern simply put was that there be no "gestapo in the United States." Of course, Mr. Chairman, as you know we have never had a national police force in this country. But in the context of 1947 with recent experience with Nazi Germany fresh in our minds and the example of the Soviet Union, the Congress wanted to be sure that the somewhat generalized functions described in other sections of Subsection (d) ^{(4) (5)} could not be invoked domestically for example, for the purpose of collecting information on citizens of the United States who are not of legitimate concern to the Agency such as their employees.

To settle any qualms on this point and to provide confidence to the public in this respect the ^{N.} Committee took a provision from the 22 January 1946 Presidential directive under which the predecessor organization of the Central Intelligence Agency function ^{ed} prior to the implementation of the National Security Act of 1947.

h. Paragraph 4 of the 22 January 1946 ^{Presidential} directive stated:

"4. No police, law-enforcement, or internal-security functions shall be exercised under this directive."

Therefore, I think it is clear that the ^{phrased} term internal-security functions ^{is} in a way is used in the proviso as somewhat synonymous with police powers but ^{principally} also to assure that the Agency's activities abroad stop at the nation's shores ~~and~~ thus the necessity to distinguish between external and internal functions.

In summary then the proviso ". . . that the Agency shall have no . . . " was inserted into the CIA section of the National Security Act of 1947 to assure that ^{it should not be used to perform} ~~no one~~ ^{would not be used to perform} granted the Agency any legal authority to perform police or general domestic investigative functions within the United States.

4. The other aspect of the problem is whether the Agency in any way violated the statutory injunction in its briefing of local police officials on informational handling techniques and on other matters. (Explain what occurred.)

5. Clearly these activities are not violative of the statutory injunction for a number of reasons:

- a. They were requested, we compelled no one.
- b. None of the activities involved the exercise of police power or internal security functions by CIA.
- c. As I understand the law, local law enforcement is one of the reserve powers of the State.
- d. the Law Enforcement Assistance Act which encourages assistance to local authorities specifically prohibits any Federal official from exercising any State powers.
- e. It is obvious that ^{Federal Assistance} ~~mere~~ ~~consistence~~ does not transform State power into Federal power. (Aid for Education, social welfare,

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Organizational Problems

We perceive ourselves as one Agency with four constituent parts when in fact we are a confederation of four relatively diverse entities when measured against factors which bear heavily on individual performance, such as:

- (1) specific sense of purpose;
- (2) expected consequences of performance;
- (3) personnel characteristics;
- (4) external tolerances;
- (5) incentives.

The premise, to the extent it is true, raises a question whether the common purpose of the Agency is in fact being served by its present organization. If it is, the next logical question is whether the deputy directors and several heads of independent offices can effectively manage all the problems that they attempt to manage.

Finally, in our relations with the new Congress we bear two burdens: first, we carry the responsibility that goes with the high reputation we have won for our performance and the quality of our product. Second, we share with other Executive agencies the problem of conducting our relations with the Congress in the tense atmosphere resulting from the emerging congressional challenge to executive authority. In these circumstances, we can expect: (a) that Congress, as an institution, will be sensitive to any suggestion that the Agency's product is being distorted to serve partisan purposes, (b) that some members will be fearful that the Agency's special authorities are being used to circumvent the will of Congress in pursuit of military or political objectives, and (c) that a lesser number of members, predominantly junior members with meager power trying to rise to national prominence on a "gutsy" issue such as narcotics trafficking, may criticize the Agency for not making greater use of what they perceive to be our limitless capability abroad. It is clear that we cannot and that we should not attempt to placate all of the divergent attitudes in the Congress. Intelligence failures, operational blunders and lack of aggressive action will be seized upon by our critics, but in the end it will be our supporters in the Congress who will count most, and we can count on them as long as they can count on us to be truly professional in our work.

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HEADQUARTERS EMPLOYEE BULLETIN

DRAFT
22 February 1973

Assistance to Programs
AGENCY TRAINING OF DOMESTIC POLICE DEPARTMENTS

1. The press ^{has} reported extensively ^{on} ~~that~~ the Agency ~~has been~~ involved in providing certain ^{assistance to programs} training ^{ment} to various police units in the United States. ~~This generated an interest by~~ Representative Edward I. Koch of New York, ^{has written} ~~who wrote~~ to the Agency and expressed ^{his} concern that CIA might be involved in internal security police functions.

2. For the information of all Agency employees, it ^{may} ~~is to~~ be of interest ^{noted} that in recent years the Agency has provided briefings and ^{assistance} ~~training~~ to ^{programs for} about a dozen city and county police forces. Our ^{participation} ~~train-~~ing has focused on demonstrations of explosive devices, the Explosive Residue Detection Technique (FRDT), and Trace Metal Detection, which was developed by the Agency and later declassified. The most recent ^{session} ~~training~~ took place during the period 11-14 September 1972, ^{involving} ~~when~~ twelve officers from the New York City Police Department ~~attended a course at the Chamber of Commerce Building.~~ ^{Topics covered} ~~This course~~ dealt with basic theories of intelligence, clandestine collection methodology, ~~and the analytical function, and security's~~ ^{role in the intelligence effort,}

3. In ^{reply} our ~~letter of 29 January 1973~~ to Representative Koch, the Legislative Counsel pointed out that we are cognizant of the National Security Act of 1947 which specifically provides that "the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions" ^{and it is our belief that} the proviso of the 1947 Act ^{in question} simply means that (1) the Agency ~~does not have~~ ^{has} either the legal ability ^{in the} or authority to ^{arrest} ~~put its hands on~~ a single individual or ^{to search papers} ~~thing~~ in the United States for police, subpoena, or law enforcement purposes and (2) the Agency's authorities cannot be invoked for purely internal security purposes such as ^{preparing dossiers} ~~collecting information~~ on ^{outside categories} ~~persons in the United States~~ who, unlike Agency employees, are not of legitimate concern to the Agency. In the instant case the Agency ^{never} ~~did not~~ exercise any police, subpoena or law enforcement powers or engage in ^{these prohibited} ~~internal security~~ functions. The Agency ^{and} ~~did give~~ technical assistance to ^{the training programs of these} organizations which do have ^{such} responsibilities, ~~for such activities~~. Consequently, the letter to Representative Koch ^{stated} that we did not consider our activities to be in violation of these restrictions.

4. Mr. Richard Helms, former Director of Central Intelligence, testified before the Senate Foreign Relations Committee on 7 February 1973, at which time he was questioned concerning our support to

public law enforcement agencies. Mr. Helms maintained that the Agency considered such assistance to be within the provisions of our charter as well as consistent with the spirit of the provisions of the Omnibus Crime Control and Safe Streets Act of 1968. That Act favors Federal assistance to State and local governments in strengthening law enforcement and authorized the Law Enforcement Assistance Administration to use the resources of all Federal agencies to carry out its activities.

5. It will now be Agency policy that future activities of this nature will be undertaken in only the most compelling circumstances, ^{and subject to such inter-agency coordination as is appropriate.} Coordination would be effected with the appropriate Federal agency such as the Law Enforcement Assistance Agency, and, if appropriate, in accordance with procedures established under the authority and requirements of the Intergovernmental Cooperation Act of 1968.

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In response to continuing Congressional interest in this subject the Director wrote to the Chairman of the House Crime Control Committee that "In keeping with the sensitivity of this matter, I have directed that such activities be undertaken in the future only in the most compelling circumstances and

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FACT SHEET

In the summer of 1972, the NYC Police, with assistance from the Ford Foundation, were establishing an analysis and evaluation unit within their Intelligence Division. At the suggestion of the Foundation representative, the NYC Police sought assistance from the Agency as to the best system for analyzing and evaluating data. We made it clear that CIA had no formal training for outside groups; however, after preliminary discussion with the police, we felt that our techniques and procedures, though involving only foreign intelligence, were basic and could relate to their needs. A four day briefing was then arranged and given to a group from the NYC Police.

The briefing was as follows:

- a. The theory and technique in analyzing and evaluating foreign intelligence data.
- b. The role of the analyst.
- c. The handling and processing of foreign intelligence information

The briefing was given by our training staff and for the most part included material prepared for new analysts. Any added expense to meet the needs of the police was insignificant. Also, we gave no specific guidance on how their system should be set up, but rather this was our basic approach which they could apply as they saw fit.

There is no provision of law which either grants or denies the Agency the authority to conduct such briefings. As any other Federal agency, we tried to satisfy a request for assistance as best we could. We considered this to be a basic public responsibility. Over the years, we have received a number of requests for assistance on data handling and analytical techniques from outside organizations. These have included other agencies of Government, the Congress and the Judiciary.